

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
OCTOBER 1, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on October 1, 2007, at the hour of 7:30 p.m.

Mayor Mills called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Griffin, Hunt, Keen, McMullin, O'Callaghan, Satterly, Truitt

Also present were City Attorney Bauman, Clerk-Treasurer Rhodes, City Engineer Buck, Public Works Director Downey, Fire Chief Drew, and Parks Superintendent Payne.

MINUTES: Councilor Griffin moved for acceptance of the minutes of the September 6, 2007, Pre-Council Meeting, and the September 10, 2007, Common Council Meeting. Councilor Satterly seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

Thank you, Madam Mayor. On the Streets and Sanitation report for tonight, the fall recycling flyer schedule should be arriving in your mailboxes shortly. The 2007 leaf pickup schedule will be posted on the City website and in *The Journal and Courier* by the end of October. At the present time, if you rake your leaves, they need to be placed in rigid containers for pickup on your normal yard waste day. Handicap ramps are being installed in Barbary Heights subdivision to meet federal requirements for accessibility. This may take a little more time due to stormwater structures being repaired, if needed, and some utility poles are being relocated to remove obstructions. Sidewalks and curbs are under construction at South and Chauncey Streets and Columbia and Chauncey Streets. That completes the report.

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

Thank you, Madam Mayor, again. Wastewater projects underway: Barbary Lift Station construction is on schedule. The Western Interceptor Phase II bid has been awarded to Atlas Excavating for \$3.8 million, with construction to begin in late 2007. Atlas Construction was also the contractor for Phase I of this project. IDEM, the Indiana Department of Environmental Management, has recognized the West Lafayette Wastewater Long-Term Control Plan under the State Judicial agreement. As far as the operation of the Wastewater Treatment Plant, total flow for September was 246.68 million gallons, for those who are interested in that number. Percent treated in the Plant was 97.74%. As far as the sewers are concerned, during the month of September, over 6,000 lineal feet were cleaned and over 6,000 lineal feet were televised. And that completes the report.

PUBLIC SAFETY: Councilor Keen presented this report.

Thank you, Madam Mayor. For the month of August, the West Lafayette Police Department handled over 1,600 calls, which is actually up about 5% from the month previous. During that same time, several of the officers participated in a variety of different training. I also would like to report that they did complete their first RAD class, which is the Rape Aggression Defense class, on September 25, and the rest of that report will be on file. And then for the Fire

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Department, they are in the process of interviewing and testing potential firefighter candidates, and they've gotten substantially through that process, but there are still a few steps that they have to with—psychological testing and other parts of that. When that is complete, then there will be an eligibility list established and then potential candidates will be drawn from that. One other thing I wanted to report, Fire Prevention Week is October 7 through 13. There have been many requests for open houses for the new temporary station and the existing fire stations, and that is going to take place on October 13 from 9:00 a.m. to noon at both Stations 1 and 3. There will be tours available for anyone who would like to go and preview that. That completes my report.

Mayor Mills said I'll add just a couple items. The Rape Aggression Defense class was very popular. We hope to do it again in the spring. I think we already have a waiting list. I happened to go the last night, just to see the women in action, and fortunately got there before they all were done, and they were going after two of the police officers who were well suited up with pads. But it's pretty impressive to watch some slight women feeling comfortable enough in what they've learned to really attack a potential attacker. So I encourage all the women in our community who would be interested in this. It's free. You just need to get on the waiting list and sign up. It's a great class, and I think all of the participants who were in the first class would highly recommend it. I know our officers have had a great time doing the class and look forward to doing it again. So, again, a great addition to what we offer as a city. I will also add that we have bike patrol officers who have been on the street during the football season, in the early weekends, and these football weekends. We have officers on Friday and Saturday nights on bikes in the near campus neighborhoods. It's very effective deterrent, because they're very quiet on bicycles. You don't see a police car rolling down the street. The officers are enjoying it, and we're adding some extra great protection to our neighborhoods. So look out for them, if you're driving around on a football weekend. We have police officers on bicycles down there. I will also add that we're very excited to do the open houses a week from Saturday. The Station No. 1 is our old station, as you know was built in, I think, in the teens, has been totally remodeled upstairs, beautiful job. I mean, our firefighters did this on their down time, they did it in-house. They put hundreds of hours of work into it. They stripped all the old oak woodwork that had been painted. They refinished the floors. They really remodeled the whole building, and it's a jewel now. It's really a jewel. A historic building that we encourage you all to come out and see. They're, rightly so, very proud of the work, and they'd love to show off that building. Likewise, the temporary station in our Parks barn, that barn is 50 years old, a great barn, a great facility. We've used it for Parks for many years. But we've invested that additional money into it, to rehab that for a temporary station. I encourage you to go out there and visit. I took a group from Champaign, Illinois, out there this week and gave them the tour of that facility. But the firefighters would love to have you come out and look around and see what we've done, and see how the space will be reused, when our permanent station is built and the firefighters are in that, and the facility reverts back to the Parks Department. I'll just say again a thank you to the Park Board and the Parks employees who have graciously moved out for this year, so that we can use that facility, instead of putting up another facility that would be really temporary. This is an investment of those dollars into a facility that we've used for decades. So please, on the 13th, come out and visit both stations if you have time, certainly visit the one that's close to you. The firefighters would love to have you come out and take a look.

PURDUE RELATIONS: Councilor McMullin presented this report.

Thank you, Madam Mayor. Speaking of football, I'm sure everyone heard, we won 33-19. Let me say again, 33-19, over the Irish this past Saturday afternoon. In women's soccer, Purdue beat Northwestern, 5-0, Sunday at the Varsity Soccer Complex. And lastly we would like to

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announce, as a City, our anticipation and eagerness to hear President Córdova's strategic plan for Purdue. The City and Purdue are always looking to improve on their relationships. Thank you, Madam Mayor.

PARKS AND RECREATION: Councilor Hunt presented this report.

Thank you, Madam Mayor. Speaking of President Córdova, she attended our Global Fest last month, and that was a real honor. She and her family, I think her children came from California, so that was very nice. The Second Annual Art on the Wabash Fair was held in Tapawingo Park on September 15. I think many of you were there. About 3,100 people were there. We had little clickers and counted, so it's not exact. We thank all the vendors and those who purchased artwork, and the volunteers who contributed to the wonderful success of the Art on the Wabash. It was a beautiful day also. Also on that same day, a sculpture was dedicated in a location a short walk down the Wabash Heritage Trail from the art fair. I hope some of you have seen that sculpture. The 15-foot sculpture is entitled "Fishtail Dance." It's colorful, multi-textured, and it rotates in the river breezes. The artist is John Mishler. He's from Goshen, and he says he received his inspiration for the theme and the colors for the sculpture from the Wabash River. I hope you'll visit it. You can see it as you drive down North River Road also. In addition and finally, the WALLA classes start on the 15th of October at Morton Community Center, and they run through November 8. The Park Board meeting is October 15 at 4:30 at the Skating Rink in Tapawingo. Thank you.

DEPARTMENT OF DEVELOPMENT: Councilor O'Callaghan presented this report.

Thank you, Mayor. I guess I'll also mention that Dr. Córdova and First Gentleman Chris Foster also came to the Hunger Hike and took the detour around Art on the Wabash, since we had the hike go past the Art on the Wabash. They're really getting involved in the community, which is great. Well, the first thing I wanted to talk about was this really neat award that the City got at the Chamber Dinner on September 18. It's the 2007 Center City Development Award, and it was presented to the City of West Lafayette for the Tapawingo South extension. City Engineer Buck accepted that award on behalf of the City. As we know, Tapawingo South is a great project that was 80% federal funds and 20% funding from the Levee/Village TIF area. Tapawingo South does provide an important link for traffic flow between Purdue, downtown Lafayette, and US 231. It's also the first leg of the master transportation plan for the Purdue University area. So that was an exciting award. Actually, we had the Hunger Hike go down Tapawingo Drive South, too, to show that off. Another exciting development event last week was "Greening the Region," and I know some people were there, and it was exciting presentations from all over the country, actually, about the economic development aspects of the river. So "greening" in two terms, environmentally friendly and preservation of the river, and also in economic development. And then an interesting note from a Purdue Research Park firm which will be honored for exemplifying achievement through the small business innovation research project. And that's Imaginestics. They'll be presented with a 2007 Tibbetts Award in Washington, D.C. on October 10. The high-tech firm has received more than \$1.7 million in federal funds through the National Science Foundation, and \$800,000 from the State. They are in discussions with numerous investors as well, to have private money in there as well. So bringing money and jobs to our community, to our City. Another Research Park company, Prosalia, received a \$2 million 21st Century Fund award, and the company current employs seven people and projects the creation of 16 new high-tech, high-wage jobs in the area. They have also received an additional \$1.1 million in additional funding. So all these exciting things going on, in terms of development. And just one of the quick note. This was, I think, in everybody's box today. The travel section of the newspaper *The Columbus Dispatch*, and with Ohio State coming in, but they highlighted the Lafayette-West Lafayette area and talked about

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what an attractive town it is and what it has to offer for visitors and says, "The Midwest doesn't mean bland. You've got good cultural diversity here, with the Purdue faculty and students from all over the world." So pretty nice development thing's going on for our community.

PERSONNEL: Councilor O'Callaghan presented this report.
Thank you, Mayor. No report tonight.

BUDGET AND FINANCE: Councilor Truitt presented this report
Thank you, Madam Mayor. No report tonight.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.

Madam Mayor, Area Plan has recently taken action that sends to us two votes, one on a rezone, one on an amendment to the UZO that I think will be very exciting infill or redevelopment projects that will be exciting in many ways for quality of life and also economic reasons for the City. We'll be discussing them in a short time.

REPORTS OF SPECIAL COMMITTEES:

Councilor O'Callaghan said thank you, Mayor. The West Lafayette Youth Council is continuing to meet about every other week, and last week they conducted a voter registration drive at the school at lunchtime, and then also Friday evening at the football game. Also, a member of the Lafayette Youth Council came to our meeting last Sunday, so that was great to have that connection. And we're actually working on a couple projects together. One is a box you'll see out in the hallway. And that's "Shoes for the Needy," collecting shoes for the Indiana Podiatric Medical Association, to sponsor the annual "Shoes for the Needy" program. So that box is out there, and they're also working with the Lafayette Council on reading teams. They'll have a group of students going to Just Us Kids, a daycare off Kalberer Road on Thursdays and Fridays after school to read to them. So a very active group, and we should be very proud of them.

PUBLIC RELATIONS:

Employee Service Anniversaries

Mayor Mills said there are several this month. Terry Jones, 25 years in our Fire Department; Sue Mattern in Parks, 5 years; Jason Isley in Parks, 10 years; and Jeffrey Ray, 20 years in the Police Department. Congratulations and a special thank you to all of these great employees who provide all of us great service every day, work very hard to do that.

West Lafayette Community Beautification Award

Councilor Satterly said I'm pleased to announce the winners of the October West Lafayette Beautification Award. The winners are Rona and Lee Schwarz who live at 808 Carrolton Avenue. The landscaping at the Schwarz home has a restful Asian style. The Japanese weeping cherry, the Yin and Yang piece, the Japanese blood grass, Pachysandra japonica, and painted ferns highlight the Asian style. Lee's favorite planting is the cascading Japanese maple near the front entrance. Rona's favorites are the many grasses that add texture and three-season interest. Many objects of art add artistic flair to the garden. The original architect for the 1970-built home was Dean Upshaw and the integrity of the structure was continued when Lee and Rona asked Upshaw to design the 2004 addition. I have a picture of the garden and Lee and Rona. If Lee and Rona would come forward. Congratulations to the two of you.

Mr. Schwarz said thank you.

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Mayor Mills said do you want to say anything.

Mr. Schwarz said it's a pleasure to live in this community, a distinct pleasure and honor, and we're happy to help make it look prettier.

Mayor Mills said thank you both so much.

Appointment to the West Lafayette Human Relations Commission

Mayor Mills said we have one other item tonight. Another addition to our Human Relations Commission. If any of you remember from last month, we have expanded the number of people on the Human Relations Commission. We filled a couple vacancies, and now we have a new addition. The Council received this in your box. The addition is Phil Subeck. Phil has been a resident for five years. A native of Chicago, Illinois, and he has graciously agreed to add to our great Human Relations Commission. I don't know if any of you have seen the information in the newspaper, but they're hosting tomorrow an information meeting, I guess you would call it, on transgender issues in the County Office Building, and this will be a collaborative hosting between all three of our Human Relations Commissions. So I appreciate Phil [Subeck] being willing to go on the Commission. It serves a great need in our community. Are there any questions from the Council?

Councilor O'Callaghan said we're glad to have him.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

Clerk-Treasurer Rhodes said you've received your State Board of Accounts ledger reports and your September cash transaction report. I'll just draw your attention to the personnel expenses in the General Fund. They're running at 3.9% over the prior year. This month, we've got equal number of pay periods, so it's a bit easier to compare. Thank you.

UNFINISHED BUSINESS:

Ordinance No. 30-07 (Amended) An Ordinance Requesting An Additional Appropriation (Clerk-Treasurer, Police Station Nonreverting Fund) (Prepared by the Clerk-Treasurer)

Councilor Griffin read Ordinance No. 30-07 by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said we will have the second reading tonight of this additional appropriation. It is \$108,100 out of the General Fund, and \$90,000 from the Police Station Nonreverting Fund, for a total of \$198,100. We have this for increased health insurance costs for 2007, and a continuation of the rehabilitation work in the City Hall basement and our fiber optic connection for the E-911 service. Are there any questions or comments from the Council?

Councilor Hunt said I just want to make one, if I may.

Mayor Mills said Councilor Hunt.

Councilor Hunt said one of the components in continuing the rehab of City Hall has to do with the redundancy of the E-911 service, so if one notifying wire of the fiber optic system goes down, there's backup. I find that quite reassuring.

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Mayor Mills said good. Thank you. Any other comments or questions? If not, I will open the public hearing. If anyone would like to speak to this additional appropriation, please come to the microphone, give us your name and address.

Mr. David Bridges [1612 North River Road] said so we're talking about transferring \$108,100 out of the General Fund. Is there a projected deficit in the General Fund right now?

Mayor Mills said we're talking about appropriating an additional amount of money.

Mr. Bridges said I see.

Mayor Mills said for insurance.

Mr. Bridges said so what are we looking at in the General Fund for the year end?

Clerk-Treasurer Rhodes said is your question how much cash do we believe we're going to have at the end of the year?

Mr. Bridges said yes, that's exactly.

Clerk-Treasurer Rhodes said we'll probably have over \$1 million, possibly \$1.1 million.

Mr. Bridges said I see. So, in other words, we're flush, according to those numbers.

Clerk-Treasurer Rhodes said pardon me. I want to correct that. Closer to \$1.2 million.

Mr. Bridges said we're even more flush, then, according to those numbers. All right. Thank you very much.

Mayor Mills said any other public comment, please.

Councilor Satterly said that's with reversions, correct?

Mayor Mills said right, it is.

Clerk-Treasurer Rhodes said that would be the cash balance.

Councilor Satterly said assuming the reversions that you have anticipated take place.

Clerk-Treasurer Rhodes said correct.

Mayor Mills said any other public comment? If not, we'll close the public hearing. Any further comments or questions from the Council?

There was no further discussion.

Mayor Mills said all right, would you call the roll, please.

Ordinance No. 30-07 passed on second and final reading, 7-0.

NEW BUSINESS:

Ordinance No. 31-07 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect [Robert Bouggy and John Folkers, R1 to NB] (Submitted by Area Plan Commission)

Councilor Griffin read Ordinance No. 31-07 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right, thank you. Mr. Bumbleburg.

Mr. Joseph Bumbleburg [Ball Eggleston law firm] said I represent the petitioners, Dr. Bouggy and Dr. Folkers who are both here with me this evening. Our petition before you will allow the expansion of their existing dental office at the corner of Northwestern and Lindberg Avenue. What we propose to do on this corner, if this rezoning is granted, is to add this lot to an already-existing NB lot and put up a new dental office on this particular corner. This particular dental office has been there for many years. It's been a very stable use for the corner. It would continue the stability on that corner. And I would like to observe that, in this process, when we started this, we talked to the City Councilor from the area; Mayor, we've talked to you about this project; we've talked a lot with [City Engineer] Dave Buck and the City Engineer's Office about this project; but, more importantly, we spoke to the neighbors. We had the wonderful assistance of Persis Newman, who gave us lists, and then we had a meeting at the doctors' office and showed them the plans, the proposed sketches that we're trying to do here, what we hope to do. And I believe we came away from that meeting with a consensus from the neighborhood that says, "This is a good thing for the neighborhood and a good thing for West Lafayette." The expansion of this dental office is not a threat to the neighborhood. Indeed, if you look at the Staff Report from the Area Plan Commission, which I know you have, they have kind of analyzed this whole concept of this corner being a commercial node. And so what we have here is a neighborhood business use. We are asking for neighborhood business, and that's exactly—we're the kind of business that that whole zone was really designed for. We believe that this is a good start on this corner, because the next step will be, if you grant this request, is to have the surveyors come in, and we will have to turn these two lots into one, because of the concept under the ordinance of straddling a lot line. And I've got the surveyors, in anticipation, at least looking at how we do that. The Staff Report here, from the Area Plan Commission, was adopted, I think, by the members of the Plan Commission at their meeting without negative vote. I believe the only person who spoke at that meeting, as a matter of fact, was Persis Newman, and she supported us, as did the numerous people. By the way, just as a matter of letting everybody know about the Area Plan Commission, under the rules, we are required to notify people within 100 feet and across the street. And we did the extra step of taking all the people who went to the neighborhood meeting—and they signed in; I sent notices to all those people, so that they had the opportunity to come to the Plan Commission, if they chose. On behalf of the doctors, I would request the Council to pass this ordinance and rezone this piece of property. Thank you. We'll try to answer any questions you might have.

Mayor Mills said good. Questions for Mr. Bumbleburg? Comments? Councilor O'Callaghan.

Councilor O'Callaghan said thank you. We talked at Pre-Council about always the concern about expanding neighborhood businesses that other businesses may come in, even though the residents are happy with this business, a concern about other businesses coming in. I think that the Area Plan staff did a good job making the distinction between this and the kind of

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business that's been there, stable there for the past 25 years, and don't anticipate that being any kind of problem.

Mr. Bumbleburg said the doctors don't anticipate moving any time soon, after they get this done, I'm sure.

Councilor O'Callaghan said thank you. And just one quick question, a note about the parking. There's 24 spaces, which will be plenty for all the employees and the patients, correct?

Mr. Bumbleburg said we are trying to make sure that all of this is done with as few or zero variances that we can figure out how. This thing has been looked at very closely by Mr. [City Engineer] Buck's office, to see if this corner will work. And I believe it was either at the Area Plan or at your caucus meeting, he made an observation that their research on this indicates this will work.

Councilor O'Callaghan said exactly. At Pre-Council he did as well.

Mr. Bumbleburg said okay, yes.

Mayor Mills said thank you. Other? Councilor Griffin.

Councilor Griffin said I think it's worthwhile to not also that concerns that one might have—after all, no one knows what tomorrow will bring—the corner's already NB. You know, so tomorrow, anything that's within the NB zone could go in there. And so it's an expansion to allow a better fit, and a more attractive building. There's nothing wrong with the building now, but a building that's updated and will look well on the corner.

Mr. Bumbleburg said and let's add to that, a more useful building on the inside. The delivery of their dental services will be greatly enhanced by having areas where wheelchairs can get through, the restrooms are a little bigger. So we're really taking an older building and bringing it into the modern day.

Mayor Mills said other questions? Comments?

Councilor Hunt said I have a comment.

Mayor Mills said Councilor Hunt.

Councilor Hunt said as you know, this is in my district, and I was at the July 17 meeting that Dr. Folkers and Dr. Bouggy had, and it was well attended. I think there were somewhere near 15, 17 people, and they were—I called it a love fest—I felt the residents were very positive. And then since then, there's been an email that went out last week sometime to neighbors in the Northwestern Heights, asking them to give me comments. And so I got comments from about 18 people, most of them were by email, but several of them were in person, and that they're all very supportive. I got no negative responses. I was very pleased about that. In addition, yesterday afternoon, I talked again to the neighbor that's directly next to the rental property that will be removed, and she assures me that she and her husband are very supportive. And Dr. Bouggy and Dr. Folkers have been in contact with her over the years, and also recently. And so I'm pleased with that process. Another thing I'd like to say is there's a sump pump that is legally draining out of the dentists' office. It's legal. Mr. [Public Works Director] Downey has

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assured me it's legal. It drains into the curb, and there's some problem, but the drainage freezes. I repeat, it is legal. It meets requirements for that age. That will be removed with the rebuild, and I'm very pleased about that, so thank you for that. And the handicapped access is, I think, is extremely good also, with the building.

Mr. Bumbleburg said thank you.

Mayor Mills said anything else? I would just add my thanks, Mr. Bumbleburg and both of you doctors, for being so considerate of the neighbors and really taking the time to work with them through this whole process. Thank you.

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

Ordinance No. 31-07 passed on first and only reading, 7-0.

Ordinance No. 32-07 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Chauncey Square PD Part II, R3W and PDMX to PDMX] (Submitted by Area Plan Commission)

Councilor Griffin read Ordinance No. 32-07 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right, thank you. Mr. Coutts.

Mr. Paul Coutts [C & S Engineering] said I'm here on behalf of the petitioner, Chauncey Square LLC. This is the third month in a row that I've been before you. As you probably remember, the last two months we've been talking about the alley vacation that's been on the north side of the little piece that we're adding on here. This time we're here to ask for approval of the rezoning. In effect, we're adding 0.205 acres that were part of the Funk land that was not included in the original proposal, because Mr. Fleischhauer did not own it at that time. The Area Plan Commission voted on it with 13 positive votes and no negative votes. I think that we've talked about this project before, but if I could just quickly maybe reiterate some of the positive points that go with it. I think the strongest point to be made is it's the appropriate place for student housing. We're just a few blocks from Purdue University. It enables students to walk to class. It certainly helps on our transportation and parking problem, and I think that's the biggest asset of the project itself. Secondly, it's a great place to support the Village. We'll have people and restaurants, and students that live down there that bring dollars that will definitely help the economics of the Village area. We're also providing parking. We have a 482-space parking garage that goes with the project. And I think, more than anything else, the fellow that passed out some of those nice renderings has done a great job on the building. I mean, I cannot take credit for it. I think it really looks good, and, if I could, maybe have you look at the rendering that Kurt [Mr. Wahl, Wahl Architecture, PC] has done over here, with regard to the streetscape along the Salisbury Street side. Just as a comment, if you go on the back side of it, that's the Chauncey side, and that's the commercial side where the restaurants will be. If you come over on the Salisbury Street side, which is what you're looking at here, it faces out on more of a residential area along Salisbury Street. And what Kurt [Mr. Wahl] and Mr. Fleischhauer have done is to come up with kind of a tee-shaped building there, where the building protrudes out,

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but there's two landscaping or courtyard areas there. And I think they've done a very good job with an iron fence, some pilasters with lights on them, and quite a bit of landscaping in that area, to soften it and provide a streetscape along Salisbury Street. I think it's a very notable, worthwhile project, and would respectfully ask for a positive vote. Thank you very much.

Mayor Mills said thank you, Mr. Coutts. All right, questions or comments from the Council? Councilor Griffin.

Councilor Griffin said so this is going to be a project that's going to take about how long?

Mr. Coutts said I'm not sure the exact timetable. I think we're looking at a couple more years.

Councilor Griffin said okay. I think this is really an exciting project. There are some things that I think we need to pay attention to. There's some street narrowings, in order to accommodate for the construction equipment that will be around the periphery of the building, correct?

Mr. Coutts said yes. There's been a process or proposal worked out with the City Engineer's Office to determine just how the staging for the construction would go, how we'd try to make a much cleaner separation for traffic and fencing that would allow the construction to go on without interfering with a lot of the parking and the traffic itself. Mr. [City Engineer] Buck has had some input there, and we appreciate his cooperation and help in coming up with that plan. You know, it's a big project, and you've got a lot of equipment to work around, and there will be times when we'll have to make South Street just one way. We'll have to bring the fence out to allow the equipment in there to build it up, so we ask for your patience and ask, you know, for the City's help as we work through it. But certainly it's a big undertaking and it's taking up the whole block, and when you take up the whole block, there's just not a lot of area left. And we do need some of the City streets to work on that project.

Councilor Griffin said so the plan that's on page 4 is—that's not actually a binding plan?

Mr. Coutts said it is binding from the viewpoint that it is part of what you're approving tonight, and obviously, you know, if we have a real bad weather situation or something comes up, then we've asked for flexibility to be able to move it a little bit or to take it in changes, maybe if something comes up. But certainly it is binding upon the developer to work on that schedule and try to work in that vein. We think it's a realistic schedule, and that hopefully everything will fit together. But, you know, we cannot stand here and give you 100% guarantee on everything on it.

Councilor Griffin said Paul [Mr. Coutts], this may not be a question for you, but it is germane to the development here, I think. This weekend, there was a piece of equipment called a man lift, which is a piece of utility equipment that is construction equipment. I know that it was parked at the corner of Columbia and Chauncey Street from at least 6:00 p.m. on Saturday evening through 8:00 o'clock or so on Sunday evening. I spoke with Mr. [City Engineer] Buck. I understand that this is an issue that's been addressed before, and, as I drove by it once and rode by it on my bicycle two other times this weekend, it really looked to me as though it was an unsafe situation. It caused narrowing of Columbia, right at the intersection. It also made it so that northbound traffic on Chauncey at that intersection could not see to the east, and could not see traffic. It's a four-way stop, but they could not see traffic at that point. If this were a one-time affair, I would not even raise the issue. But my understanding is that it's something that has been brought up before, with construction management. It raises a concern for me,

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because what we're looking at is an excellent project, but a project that's going to go on for a year and a half to two years, and is going to impact vehicles and pedestrians and bicyclists and skateboarders who are in the Village. And I'm wondering how we can get, what I'm going to call, a more satisfactory arrangement, in terms of safety. As we look at the current project we're not voting on, but even if we look at the project that we're voting on, how can we make sure that the City and Mr. Fleischhauer's people are working together optimally for safety for our public?

Mr. Coutts said well, I think it will come through the next process, and that is, as we prepare the final detailed plans, we add more meat to what we already presented here tonight for the rezoning. And as we do that, we will have more discussion, more talk, and we will be adding more substance to this construction plan that we've talked about, as far as sequencing, as far as what needs to be done to alleviate some of these concerns that you have. And so, it is our intent to work with Mr. [City Engineer] Buck, you know, through the City, as we work on our final detailed plans. Not just through the construction part of all of it, but also to do the safety part of it, the, I'm going to call it the maneuvering of construction vehicles—just some of the things that you talked about here tonight. And so the City still, you know, has an opportunity to have a lot of say in terms of what we can do and cannot do, as we do these final detailed plans.

Councilor McMullin said I'd also like to add, Councilor Griffin put it quite well, there's a lot of alleys and streets going all which ways right there, and for students walking, I don't want to talk for the sake of talking, but I would have the same concerns and agree with my fellow Councilor on this one.

Mr. Coutts said I understand.

Councilor McMullin said thank you.

Councilor Griffin said Mr. [City Engineer] Buck, could you address a couple questions for me? So, you and I spoke this morning, and I spoke to you about this piece of equipment that was in the street.

City Engineer Buck said yes.

Councilor Griffin said you went down there?

City Engineer Buck said yes.

Councilor Griffin said and I think that you found that, by the time you were there, the equipment was moved.

City Engineer Buck said yes, it was being used—

Councilor Griffin said yes.

City Engineer Buck said when I've been down there today.

Councilor Griffin said this is not a first-time affair?

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City Engineer Buck said no, we've had a lot of, I guess, concerns. Mostly calls from people who have been stuck in construction and things like that, and we've tried really hard to work through this construction. It's a very tight site, and I can certainly understand it's pretty unenviable to have very little room to build such a tall building and stay out of the right-of-way as much as possible. Compounding it right now, we're putting curbs and sidewalks in, and so the City has a contractor under contract, working on the curbs which pushes the construction that much farther out into the street. That's the hope with the drawing that you have. It's very preliminary now, but there will be more detail added to that drawing, so that when there are occupants in that building that's under construction now, and restaurants and other businesses open, people parking in the parking garage, that the construction site is that much more contained and removed from areas of the public way that are open. Right now, you know, we don't want to slow down construction. They are buttoning things up with the building. There's less and less work that requires those large lifts to be out in the right-of-way, taking up room for traffic. We've requested that they have flagmen. Our contractor has been very good about having flagmen whenever they're having a concrete truck or the curb machine, or just workers blocking or partially in the travel lane. But about the only thing I can do is stop construction, and that's not going to, I think, solve anything. It's just going to prolong it. So, since they are, you know, closing up this first part of the project, building A and the parking garage, and things are starting to become more completely interior and less and less on the exterior, where they have masonry work and sealants and things like that that they have to put on the building, hopefully in a few weeks—and I can't speak for their schedule to know exactly how long it's going to be—but it's much more isolated than it has been.

Councilor Griffin said but perhaps this even very piece of equipment has been left on the street before and has been identified as being a problem and felt—and the City has expressed that it's an unsafe situation. Is that right?

City Engineer Buck said yes.

Councilor Griffin said okay. So, can someone help me understand why it continues to be left in the street after use?

Mayor Mills said unfortunately, Councilor Griffin, there's only Mr. Coutts and Mr. Wahl who are not the—

Mr. Fleischhauer [property owner] said I'm here.

Councilor Griffin said Mr. Fleischhauer's here.

Mayor Mills said Mr. Fleischhauer, I didn't see you, I'm sorry.

Mr. Fleischhauer said Andy's [Mr. Kingma, Fleischhauer Rentals] not here tonight or he could answer that.

Mayor Mills said do you want to say anything, Mr. Fleischhauer?

Councilor Griffin said Mr. Fleischhauer, can you help us?

Mr. Fleischhauer said sure. Well that piece of equipment has been in the street quite a bit. As Dave [City Engineer Buck] mentioned, though, it was moved. When you have to build to the

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property lines like we are, it's going to be there. I mean, that's just construction. And the phase 2 of this project will take 'til August of '09. That's our move-in date on the current phase we're talking about, which includes the Funk property. But the fence that we're putting up on this next phase is permanent. It's not going to be moved. And Dave [City Engineer Buck] has worked with us very well on that, and that will be installed very shortly. It's not going to have any openings in it or anything, so we've worked it out with Dave to make it work. But it is a hassle. I mean, I've spent the last three months sitting over there, watching out of the back of my office, and it's very slow. It's not near as slow as we go in Florida, but it's still slow. But, in any event, this next phase will go a lot smoother, because we have a 492-space parking garage to park all the construction people in, and the other people with the commercial and residential.

Councilor Griffin said it looks like there's about a 15-foot, maybe 15- to 20-foot wide area that is going to become sidewalk again. Would it not be possible that this equipment, at the end of the day, could not be moved over onto—it would be relatively up against the building, and it would be within your orange snow fence—

Mr. Fleischhauer said well, on the next phase, it will be inside the permanent fence.

Councilor Griffin said current phase.

Mr. Fleischhauer said oh, current phase. Well, we're just about done with that. The piece of equipment on that, they were probably washing brick Saturday, or putting some last stone on that corner. But we're getting—the whole front of the building, from the Chauncey and North Street side will be done, virtually. Because we're going to open the garage pretty soon. All the equipment's been put in.

Councilor Griffin said okay.

Mr. Fleischhauer said and anyway, any other questions?

Councilor Hunt said Mr. Fleischhauer, so let's say there's some big equipment that you won't be able to get in the parking garage entrance?

Mr. Fleischhauer said 7' 6" is the height.

Councilor Hunt said but I don't know how tall the man lift is—

Councilor Griffin said this would not be—

Mr. Fleischhauer said well, the man lifts won't fit in there anyway.

Councilor Hunt said but I guess—

Mr. Fleischhauer said we'll have that alleyway behind, plus all the area that we're fencing off.

Councilor Hunt said but I guess we're asking for some assurance that fences will be around and—

Mr. Fleischhauer said fences are going to be permanent, once we install them.

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Councilor Hunt said and flagmen will be there.

Mr. Fleischhauer said flagmen were there for the City today, but they didn't have flags. They were directing with their hands.

Councilor Hunt said I mean, there was a bad accident because of poor visibility, just by the Library two weeks ago, so—

Mr. Fleischhauer said I don't think that had anything, though, to do with our job.

Councilor Hunt said no, I know, I did not mean that at all. But there was blocked visibility on the corner, is what the newspaper said anyway.

Mr. Fleischhauer said we weren't on that corner.

Councilor Hunt said no, I'm very well aware you were not on that corner.

Mr. Fleischhauer said okay.

Mayor Mills said any other questions?

Councilor McMullin said yes, Mr. Fleischhauer, just a quick question. Is it June or August of '09?

Mr. Fleischhauer said August.

Councilor McMullin said okay. I wrote it down wrong, then. And I know construction is construction. How concrete is that date? No pun intended.

Mr. Fleischhauer said that gives us a very liberal schedule, in terms of what we're doing.

Councilor McMullin said okay.

Mr. Fleischhauer said all the infrastructure for this thing is put in now. You know, the parking garage, that's a \$6 million front-end cost that's already there. And you won't get another developer to do that in West Lafayette. But all the sprinkler system, that whole section has a basement under it. All the infrastructure's there. So the second phase, actually, the foundation's in for the second phase. So that's a big part of it right there. Other than where Funk's four-unit is. I would just like to say that [Mayor] Jan Mills has been very supportive of us all along, and we appreciate everything you've done, even before you were Mayor.

Mayor Mills said it's a great project.

Mr. Fleischhauer said I was absent, down in Florida doing projects, but I'm back now.

Mayor Mills said I think Councilor O'Callaghan had a question.

Councilor O'Callaghan said thank you. I just wanted to note that, even though we're approving this project now, all along the idea was to have this additional part, and so when you planned

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the parking in the parking garage, you included enough spaces for all of this project, and that indeed have even 22—

Mr. Fleischhauer said 26 extras.

Councilor O'Callaghan said to 27 extra parking spaces, depending on to what use the commercial comes.

Mr. Fleischhauer said right.

Councilor O'Callaghan said and I do just have to say that I really like the end on the parking garage that matches the building. It's just really nice aesthetic piece.

Mr. Fleischhauer said it all cost a lot of money, but it's worth it.

Councilor O'Callaghan said yes, but it's a nice aesthetic piece, and the courtyards make it like yards—

Mr. Fleischhauer said it is. Those are townhouses.

Councilor O'Callaghan said fits well in with the residential area. So I appreciate the looks of it. Thank you. Kurt [Mr. Wahl] did a nice job.

Mr. Fleischhauer said actually, that was my idea on the fences and the posts.

Mayor Mills said it's a beautiful building, as you drive towards it, it just fits in there with everything else.

Mr. Fleischhauer said it does. And we intend to continue in the Village. We've got our eye on some other things. But we've got to get this done first.

Mayor Mills said thank you for being here and answering our questions.

Mr. Fleischhauer said thank you.

Mayor Mills said all right, any other questions? Councilor Truitt.

Councilor Truitt said hey, Dave [City Engineer Buck], could you give us a quick update—one of the questions I get is retail base. Could you just give us a quick update on where things stand, from a retail perspective down below and the process?

City Engineer Buck said yes. We are busily putting in the curb and sidewalks now, and I believe there's a couple things left with storefronts and some other things that we've asked before we release the building permits for the tenant buildouts, the restaurants on the first floor. I would anticipate those just a week or two kind of timeframe. Nothing substantial that remains to be completed before we can release those and things start finishing out. And then the intent is for everything to be done and occupiable in the same completion date, so the restaurants won't open before the apartments are ready and *vice versa*. That type of thing.

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Councilor Truitt said and then one other question. Mr. Coutts made mention of working with you and Mr. Fleischhauer. Also, you and I had conversations on the same topic that Councilor Griffin brought up a couple times. Based on this next go round, your feeling is things are different than what they were before, and you feel—I think the permanent fence is going to be, that's going to be a huge, huge help, but how do you feel?

City Engineer Buck said yes, right off the bat, I think that's going to help train everybody that comes there—subcontractors, deliverymen, whoever—in knowing this is the worksite and this is not the worksite. And the same thing's true for the public, to be able to know the other side of the fence is a work zone, I can't park here or I can park here. And keep that consistent through as much of the construction period as we can. I understand there will be some times where some deliveries or maybe some cranes or something may be necessary to block traffic, and those unique instances, we'll have to handle on an individual basis, as we always would. But this will just give, you know, one uniform playing field for the construction. I think it's been pretty generous. I hope they feel pretty confident they'll be able to complete the construction. I know, on the Salisbury Street end, seven stories is going to be getting up there pretty tall, so it's going to be a challenge, but we have, I think, been fairly generous with the amount of right-of-way that we've said, "Take it and use it, and Godspeed."

Councilor Truitt said and then Andy's [Mr. Kingma, Fleischhauer Rentals] going to be able to then build the consistency in his planning with his people from the get-go this time, and you feel comfortable with—

City Engineer Buck said yes, I think it works both ways.

Councilor Truitt said great.

Mayor Mills said any other questions? I will just say again, thank you, Mr. Fleischhauer for being here and answering the questions. It is a very tight site. It's a great addition to the Village area. It's going to be a wonderful project and we appreciate you being sympathetic to the safety concerns. All right, other questions? Councilor O'Callaghan.

Councilor O'Callaghan said thank you, Mayor. Just one other thing that I wanted to point out for people that weren't at Pre-Council is that we did talk about that the understanding is that the occupancy rate of apartments close to campus or walking distance within campus, they are at capacity. So when people hear that we're approving more apartments, they're going to say, "Isn't there a lot of vacancy and there are too many apartments?" There may be vacancies in apartments in outlying areas, but this kind of infill development, that there's not a vacancy rate and these apartments will be well-used and well-suited for the City. So I wanted to make that clear. Thanks.

Mayor Mills said good. Thank you. Anything else?

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

Ordinance No. 32-07 passed on first and only reading, 7-0.

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Resolution No. 28-07 (Amended) A Resolution Requesting The Transfer Of Funds [Clerk-Treasurer, Fire Department] (Prepared by the Clerk-Treasurer)

Councilor Griffin read Resolution No. 28-07 (Amended) by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said this resolution was amended in the Pre-Council. We have a transfer of funds in the Clerk-Treasurer's Office from Travel, \$1,755, and Official Bonds, \$2,775, to Insurance, \$4,530. In the Fire Department we have a transfer from New Uniforms, Electricity, and Gas in the amount of \$12,100, to Gasoline, Postage, Repairs-Buildings & Structures, Repair Services, and Furniture & Fixtures, for the grand total of \$16,630. You have the write-up on each of these. The Clerk-Treasurer is here, as is the Fire Chief. Are there questions or comments?

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

Resolution No. 28-07 (Amended) passed on first and only reading, 7-0

COMMUNICATIONS: None.

CITIZEN COMMENTS:

► Mr. Sam Haynes [713 Avondale Street] said well, I have a couple questions. Thank you, Mayor. I'm interested in the new fire station location.

Mayor Mills said yes, sir.

Mr. Haynes said have we purchased the lot?

Mayor Mills said no, sir, we haven't given the final report yet. It's almost complete, and we will present that to the Council in the next couple weeks. That will be there for their study and decision, and then we will go about acquiring the land.

Mr. Haynes said okay. Now, does this project come under the Board of Works, or who oversees this project?

Mayor Mills said well, we will be using TIF funds, so the Redevelopment Commission will have to approve any purchase and bonding that we will need for this project, but it will also come to the Council for their approval of the site.

Mr. Haynes said okay. Thank you.

Mayor Mills said you're welcome.

► Mr. David Bridges [1612 North River Road] said I hate to keep beating up on this issue, but I want to raise the question of legal fees once again. And specifically, it concerns the fees that have been incurred in the Weida case. Now this was a problem of occupancy, apparently, and it involved a five-bedroom apartment in which, apparently unknown to the Weidas, more than three unrelated individuals were living. It is incredible that no less than four attorneys are

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working for the City on this case—Bauman and Flannery of Gambs Mucker & Bauman and Scaletta and Mallon of Ice Miller. The costs billed to date, from the time this case started back in April of 2006—and I'd like to remind everyone that we are now in September of 2007—were \$48,000 and some for Gambs Mucker & Bauman, and \$11,000 for Ice Miller. Now that's a total of \$59,000 and some. Okay, now here's the catch: Scaletta and Melon have only billed us—by the way, at the rate of \$400 an hour—to the end of July. Now according to the court docket for Superior 2, that's Judge Busch, Ice Miller have continued to be involved in this case, at least through mid-September. And we're at the beginning of October now. And I'm sure there are many months left after that. Attorney Robert Bauman hasn't bothered to bill the City since the end of April. So at the present time, we are owing five months' worth of legal costs to Mr. [City Attorney] Bauman and his associates, and two months' to Scaletta and Melon of Ice Miller. And this is a case that shows all the signs of going on forever, Mr. Bauman. Since it's become a constitution issue now, and the constitutionality of the ordinance is now being challenged by the Weidas, it could even get to the Indiana Supreme Court. And who knows how much that's going to cost. It's my perception that the City Attorney has really bitten off more than he can chew this time, and he's got the City into a most awful legal mess. So I have three questions for you, Mr. Bauman. One, why did you embroil the City in this case in the first case? It was a matter that could and should have been resolved without suing. The Weidas, as is their right, are challenging the constitutionality of the City's ordinance. And in such cases—and I'm sure Mr. Bauman understands this—the full burden of proof lies heavily with the party who's challenging the constitutionality of the enactment. And in that case, it's the Weidas. And this has been shown a number of times in previous cases. So that being the case, since they had to establish a very strong case on their own, why did you go running to Ice Miller to get us out of this mess? And my third question is why have you not billed the City for the past five months? Even if we just consider the Weida case, the amount we owe you must be substantial. Dare I guess? No, I probably can't even guess. But I'll bet it's over \$100,000 by now.

Mayor Mills said Mr. Bridges, Mr. Bauman is not on trial here. Mr. Bauman works for the City and takes on the cases that are referred to his firm by the code enforcement program.

Mr. Bridges said Madam Mayor, my questions were directed to Mr. Bauman who is the person—

Mayor Mills said and, Mr. Bridges—

Mr. Bridges said who is billing the City—

Mayor Mills said Mr. Bridges—

Mr. Bridges said these obscene amounts of money that—

Mayor Mills said Mr. Bridges—

Mr. Bridges said that we cannot afford, Madam Mayor.

Mayor Mills said we can afford. We have a 65% rental occupancy in the City of West Lafayette. We have one of the top-rated code enforcement and occupancy programs in the country in this city. And it provides safe and decent housing for every person who rents in our community. We very seldom take things to court. We are very seldom challenged. But when we are, it is

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our duty, it's our responsibility, to make sure that our laws are upheld. That's what we are instructed to do, as members of the government of this community.

Mr. Bridges said Madam Mayor—

Mayor Mills said and there is money that is being directed to ensure safe and decent housing for every person in this community who rents. This is one of those unusual years where we are spending money on legal fees, but that's not the normal situation. And we have laws on the books that we must uphold.

Mr. Bridges said Madam Mayor, you're off the point. I asked the questions—

Mayor Mills said Mr. Bridges, I'm not off the point.

Mr. Bridges said oh, yes—

Mayor Mills said when Mr. Bauman—

Mr. Bridges said can you or Mr. Bauman explain to me why we had to go running to Ice Miller Donadio to start this—

Mayor Mills said because we wanted experts in the area of constitutional law—

Mr. Bridges said because we couldn't handle the case.

Mayor Mills said Mr. Bauman is a municipal attorney and is one of the experts in the State on municipal law. But he is not a constitutional attorney. We needed someone who was a constitutional expert, and that is typical in a case like this that you rely on people who are the experts.

Mr. Bridges said he bit off more than he could chew. That's the bottom line.

Mayor Mills said well, that is your opinion, Mr. Bridges. But—

Mr. Bridges said it is not just my opinion. It's a lot of people's opinions—

Mayor Mills said that's fine. We appreciate that.

Mr. Bridges said I think Mr. Bauman should answer these questions himself.

Mayor Mills said Mr. Bauman is not on trial here, Mr. Bridges—

Mr. Bridges said I'm asking him questions. I'm not putting him on trial.

Mayor Mills said I'm asking you that—to sit down, please. It is not—

Mr. Bridges said well, I bow to the Chair, of course—

Mayor Mills said it is not appropriate—

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Mr. Bridges said but I think it's outrageous that you have prevented the City Attorney from answering some questions that are very pertinent and that are costing the taxpayers a great deal of money. And I think everybody here needs to realize that, Madam Mayor.

Mayor Mills said thank you, Mr. Bridges. Are there other comments, please, from the public?

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor Griffin moved for adjournment. Motion was seconded by Councilor O'Callaghan and passed by voice vote, the time being 8:36 p.m.

Respectfully submitted,

Judith C. Rhodes, Clerk-Treasurer
Secretary of the Common Council